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WASHINGTON, D.C.

June 21, 2024

Via ECF

Hon. Louis L. Stanton
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

RE: *The City of New York v. Magellan Technology, et al.*, No. 23-5880-LLS-OTW

Dear Judge Stanton:

We represent Defendants Magellan Technology, Inc., Ectoworld, LLC d/b/a Demand Vape, and Matthew J. Glauser (collectively, “Defendants”), in the above-referenced matter. We write, with Plaintiff’s consent, pursuant to Individual Practice Rules 1.A and 1.E, and L.R. 7.1(d), to request a one (1) business day extension of time from June 21, 2024, to June 24, 2024, for Defendants to file their answers to Plaintiff’s Amended Complaint [ECF No. 20].

Defendants, with consent from the City, further seek clarification as to the subject matter of the Rule 16(b) conference set for June 28, 2024 [ECF No. 105] in light of the Court’s May 29, 2024 Order allowing for expedited discovery related to the City’s motion for preliminary injunction in advance of the conference [ECF No. 106]. To the extent that the Court contemplated hearing oral argument or any evidence on the motion for preliminary injunction at the June 28, 2024 hearing, Defendants, with the consent of the City, request adjournment of any oral argument or hearing on the motion.

Pursuant to the Court’s May 24, 2024 Opinion & Order, Plaintiff’s May 28, 2024 Letter [ECF No. 104] indicating the City’s intention to proceed without further amendment of its Amended Complaint, and Local Rule 6.3, Defendants’ respective answers to the Amended Complaint were originally due on June 7, 2024, and the deadline was subsequently extended to June 21, 2024 [ECF No. 109].

Due to several conflicting deadlines, including the filing of Defendants’ motion for reconsideration in this matter, and previously scheduled depositions in other matters, counsel for Defendants require additional time to adequately address the allegations in the Amended Complaint and consult with Defendants to gather additional information necessary to file their answers to the Amended Complaint. The requested extension will provide sufficient time to allow counsel to adequately address these issues. This is Defendants’ second request for an extension, and the City consents to the request.

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In the event that the Court grants the consented motion to extend the deadlines, the filing of Defendants' answers will occur on June 24, 2024.

Further, on May 28, 2024, the Court set a Rule 16(b) conference in this matter for June 28, 2024 [ECF No. 105]. On May 29, 2024, the Court entered an order [ECF No. 106] allowing the parties to conduct "expedited, targeted discovery in advance of that conference" to resolve "additional fact issues respecting" the City's application for preliminary injunction. On June 4, 2024, the City issued document requests to Defendants. Defendants expect to begin production of documents prior to the June 28, 2024 conference; however, production of responsive documents is unlikely to be completed by that date.

As the parties are uncertain whether the Court intends to hear argument on the City's motion for preliminary injunction at the June 28, 2024 conference, Defendants request an adjournment of any hearing on that motion. The City consents to this request.

If the above is satisfactory to the Court, Defendants respectfully request that the requested extensions of filing deadlines and, to the extent necessary, adjournment of any hearing on the City's motion for preliminary injunction be "So Ordered."

Thank you for your attention to this matter.

Respectfully submitted,

/s/Eric N. Heyer

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cc: All counsel of record (via ECF)